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Sections 23000 to End

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1. In general

Provisions of rule of state board of equalization, requiring that fair trade contracts, filed with board by manufacturers, wholesalers and rectifiers of distilled spirits, state minimum resale prices to consumers, minimum retail prices

chargeable by purchasers from vendees, and discounts offered, and provisions as to obtaining permission for "close out" sales, were valid as setting up reasonable means for administration of act. *Nelson v. Reilly* (1948) 198 P.2d 694, 88 C.A.2d 303.

§ 24757. Administrative rules; enforcement. The department may adopt such rules as it determines to be necessary for the administration of Sections 24754 to 24756, inclusive, and shall take such steps as may be necessary to enforce the provisions of such sections and the rules adopted by it for the administration thereof. (Added Stats.1953, c. 152, p. 1002, § 1, as amended Stats.1955, c. 447, p. 918, § 98; Stats.1961, c. 635, p. 1837, § 5.)

Historical Note

The 1955 amendment substituted "department" for "board" near the beginning of the section.

The 1961 amendment added all that portion of the section following the word "inclusive."

Derivation: Stats.1935, c. 330, p. 1123, § 55.6, added Stats.1947, c. 657, p. 1698, § 1, amended Stats.1949, c. 574, p. 1071, § 3.

Cross References

Rules and regulations in general, see § 25750.

Administrative Code References

Prices, see 4 Cal.Adm.Code 90 et seq.

Notes of Decisions

Library references

Administrative Law and Procedure
§388.

C.J.S. Public Administrative Bodies and
Procedure § 95.

1. In general

Provisions of rule of state board of equalization, requiring that fair trade contracts, filed with board by manufac-

turers, wholesalers and rectifiers of distilled spirits, state minimum resale prices to consumers, minimum retail prices chargeable by purchasers from vendees, and discounts offered, and provisions as to obtaining permission for "close out" sales, were valid as setting up reasonable means for administration of act. *Nelson v. Reilly* (1948) 198 P.2d 694, 88 C.A.2d 303.

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Chapter 11 added Stats.1953, c. 152, p. 1002, § 1. See Historical Note following division heading, preceding § 23000.

Cross References

Constitutional provisions relating to alcoholic beverages, see Const. art. 20, § 22.
 Limitation as to time of filing accusations, see §§ 24206, 24208.
 Suspension and revocation of licenses, effect of limitations of this chapter, see § 24200.

§ 24850. Definitions; effect. Words and phrases used in this chapter shall have the meanings given them by this division except as otherwise indicated in this chapter. (Added Stats.1953, c. 152, p. 1002, § 1.)

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

Cross References

Definitions covering division, see § 23002 et seq.
Seizure for violation, see § 25350.

Notes of Decisions

Library references

Intoxicating Liquors ⌘111.
Trade Regulation ⌘954.
C.J.S. Intoxicating Liquors § 192.
C.J.S. Trade-Marks, Trade-Names, and
Unfair Competition §§ 248, 249.

1. Validity

Fair trade provisions of the Alcoholic Beverage Control Act are not invalid as unlawfully delegating legislative power in so far as they provide that each producer and wholesaler must set the price at which retailers must sell his product. *Allied Properties v. Department of Alco-*

holic Beverage Control (1959) 346 P.2d 737, 53 C.2d 141.

It was not the purpose of the Alcoholic Beverage Control legislation to reduce intemperance by establishing high prices generally but only by preventing the increase of consumption of alcoholic beverages resulting from retail price cutting and bargain sales, and the Legislature could take reasonable measures to eliminate some of the causes of an evil without attacking all of them and the classification made by the Legislature in regulating retail prices without regulating wholesale prices was reasonable. *Id.*

§ 24851. Bottled wine. "Bottled wine" means wine packaged in individual containers of one gallon or less. (Added Stats.1953, c. 152, p. 1002, § 1.)

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

Library references: Intoxicating Liquors ⌘111; Trade Regulation ⌘954; C.J.S. Intoxicating Liquors § 192; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition §§ 248, 249; Words and Phrases (Perm.Ed.).

Cross References

Gallon defined, see § 23031.

§ 24852. Bulk wine. "Bulk wine" means wine packaged in individual containers of over one gallon or wine transferred via pipeline or shipped in tank cars or tank trucks. (Added Stats.1953, c. 152, p. 1002, § 1.)

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

Library references: Intoxicating Liquors ⌘111; Trade Regulation ⌘954; C.J.S. Intoxicating Liquors § 192; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition §§ 248, 249; Words and Phrases (Perm.Ed.).

§ 24853. Class; type. "Class" and "type" of wine mean class and type as defined or provided for by regulations of the U. S. Treasury Department and the State Department of Public Health. (Added Stats.1953, c. 152, p. 1002, § 1.)

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

Library references: Intoxicating Liquors ⌘111; Trade Regulation ⌘954; C.J.S. Intoxicating Liquors § 192; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition §§ 248, 249; Words and Phrases (Perm.Ed.).

§ 24854

ALCOHOLIC BEVERAGES

Div. 9

§ 24854. Repealed. Stats.1957, c. 183, p. 830, § 1, effective Nov. 1, 1957

Historical Note

Former section 24854, which defined "competitive price" and "affiliated company or corporation," added by Stats.1953, c. 152, p. 1002, § 1, was derived from Stats.1935, c. 330, p. 1123, § 55.65, added by Stats.1949, c. 574, p. 1064, § 1; Stats.1951, c. 895, p. 2415, § 1.

§ 24855. Consumer. "Consumer" means a person who buys wine for consumption off the premises where sold. (Added Stats. 1953, c. 152, p. 1002, § 1.)

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

Library references: Intoxicating Liquors ☞111; Trade Regulation ☞954; C.J.S. Intoxicating Liquors § 192; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition §§ 248, 249; Words and Phrases (Perm.Ed.).

§ 24856. Effective. "Effective" means a fair trade contract or price schedule, including changes therein filed, published, mailed or posted, and in effect. (Added Stats.1953, c. 152, p. 1002, § 1.)

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

Library references: Intoxicating Liquors ☞111; Trade Regulation ☞954; C.J.S. Intoxicating Liquors § 192; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition §§ 248, 249; Words and Phrases (Perm.Ed.).

§ 24857. File; post. "File" or "post" means to mail or deliver fair trade contracts, price schedules, or changes in either to the Sacramento office of the department. If mailed, they shall be deemed to be filed on the dates prescribed in this chapter only if postmarked in California at least two days before the applicable prescribed date. (Added Stats.1953, c. 152, p. 1002, § 1, as amended Stats.1955, c. 447, p. 918, § 99.)

Library references: Intoxicating Liquors ☞111; Trade Regulation ☞954; C.J.S. Intoxicating Liquors § 192; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition §§ 248, 249; Words and Phrases (Perm.Ed.).

Historical Note

The 1955 amendment substituted "department" for "board" at the end of the first sentence.

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

§ 24858. Item of wine. "Item of wine" means wine that differs from all other wine in its brand name, secondary brand name, form of label, class or type, vintage date, special or gift package, number of bottles in a case, or size of bottles. An item of wine is similar if all the elements listed above are the same except its brand name, sec-

ondary brand name, or form of label. (Added Stats.1953, c. 152, p. 1003, § 1.)

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

Library references: Intoxicating Liquors Ⓒ111; Trade Regulation Ⓒ954; C.J.S. Intoxicating Liquors § 192; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition §§ 248, 249; Words and Phrases (Perm.Ed.).

§ 24859. **Licensee.** "Licensee" means any person holding a license which authorizes the sale of wine. (Added Stats.1953, c. 152, p. 1003, § 1.)

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

Library references: Intoxicating Liquors Ⓒ111; Trade Regulation Ⓒ954; C.J.S. Intoxicating Liquors § 192; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition §§ 248, 249; Words and Phrases (Perm.Ed.).

§ 24860. **Person.** "Person" includes any California licensee or any person without the State who sells wine to licensees. (Added Stats.1953, c. 152, p. 1003, § 1.)

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

Library references: Intoxicating Liquors Ⓒ111; Trade Regulation Ⓒ954; C.J.S. Intoxicating Liquors § 192; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition §§ 248, 249; Words and Phrases (Perm.Ed.).

§ 24861. **Sell.** "Sell" includes advertisements and contracts to sell. (Added Stats.1953, c. 152, p. 1003, § 1.)

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

Library references: Intoxicating Liquors Ⓒ111; Trade Regulation Ⓒ954; C.J.S. Intoxicating Liquors § 192; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition §§ 248, 249; Words and Phrases (Perm.Ed.).

§ 24862. **Compliance with price schedule or fair trade contract.** No licensee shall in this State sell or resell to a retailer or consumer, and no retailer shall in this State buy any item of wine except at the selling or resale price thereof contained either in an effective price schedule or in an effective fair trade contract as authorized by Chapter 10 of this division, unless otherwise provided in this chapter.

Wine sold pursuant to a bona fide order accepted on the last business day of any month may be delivered to the purchaser, at the price in effect during said month, within two business days immediately following the last day of the month in which the sale was made. (Added Stats.1953, c. 152, p. 1003, § 1, as amended Stats.1957, c. 183, p. 830, § 2.)

Library references: Intoxicating Liquors Ⓒ110; Trade Regulation Ⓒ951 et seq.; C.J.S. Intoxicating Liquors § 191; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 246.

Historical Note

The 1957 amendment added the last paragraph.

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

Cross References

Contracts regarding alcoholic beverages, see § 24750.

§ 24863. Exclusions. This chapter does not apply to any of the following:

(a) Sales of bulk wine, except where bulk wine is sold and bottled by the seller for the purchaser, in which case posting is required as provided in this chapter for bottled wine.

(b) Sales to consumers for consumption on the premises.

(c) Sales to holders of on-sale beer and wine licenses for airplanes and to holders of on-sale general licenses for airplanes and air common carriers. (Added Stats.1953, c. 152, p. 1003, § 1, as amended Stats.1957, c. 183, p. 830, § 3.)

Library references: Intoxicating Liquors § 110; Trade Regulation § 951 et seq.; C.J.S. Intoxicating Liquors § 191; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 246.

Historical Note

The 1957 amendment added paragraph (c).

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

§ 24864. Trading areas. For the purpose of providing different selling or resale prices, the State may be divided into the following trading areas:

(a) Mountain trading area, which consists of the Counties of Del Norte, Siskiyou, Modoc, Shasta, Trinity, Humboldt, Lassen, Mendocino, Tehama, Plumas, Butte, Sierra, Nevada, Placer, El Dorado, Amador, Calaveras, Alpine, Tuolumne, Mariposa, Mono, Inyo, and Imperial, and those portions of the Counties of Kern, San Bernardino and Riverside which lie east of the mountain divide of the Sierra Nevada, Tehachapi, and San Bernardino Mountains, commonly known as the Desert Country.

(b) Northern California trading area, which consists of all counties and portions of counties lying north of the southern boundaries of San Luis Obispo, Kern, and Inyo Counties which are not included in the mountain trading area.

(c) Southern California trading area, which consists of all the counties and portions of counties lying south of the boundaries of the

three counties named in subdivision (b) which are not included in the mountain trading area. (Added Stats.1953, c. 152, p. 1003, § 1, as amended Stats.1955, c. 1129, p. 2123, § 1.)

Library references: Intoxicating Liquors § 110; Trade Regulation § 951 et seq.; C.J.S. Intoxicating Liquors § 191; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 246.

Historical Note

Stats.1955, c. 1129, p. 2123, § 1 amended this section by adding, to paragraph (a), the provisions commencing with the words "and those portions" etc.; and by inserting the words "and portions of counties" in paragraphs (b) and (c).

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

Cross References

Provisions relating to California's counties and their boundaries, see Government Code § 23000 et seq.

§ 24865. Trading areas; specified prices; minimum prices. For the Southern California and the Northern California trading areas the selling and resale prices shall be specified prices. For the mountain trading area the selling and resale prices may be minimum prices, except that the minimum prices shall not be less than the specified prices for the Northern California trading area, and except that the minimum prices provided for counties in the mountain trading area lying south of the southern boundaries of San Luis Obispo, Kern, and Inyo Counties shall not be less than the specified prices for the Southern California trading area. (Added Stats.1953, c. 152, p. 1003, § 1.)

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

Library references: Intoxicating Liquors § 110; Trade Regulation § 951 et seq.; C.J.S. Intoxicating Liquors § 191; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 246.

§ 24866. Wine growers, wholesalers and rectifiers; posting price schedule; fair trade contract. Each wine grower, wholesaler licensed to sell wine, wine rectifier, and rectifier shall:

(a) Post a schedule of selling prices of wine to retailers or consumers for which his resale price is not governed by a fair trade contract made by the person who owns or controls the brand.

(b) Make and file a fair trade contract and file a schedule of resale prices, if he owns or controls a brand of wine resold to retailers or consumers. (Added Stats.1953, c. 152, p. 1003, § 1.)

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

Library references: Intoxicating Liquors § 110; Trade Regulation § 951 et seq.; C.J.S. Intoxicating Liquors § 191; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 246.

Cross References

Fair trade contracts, see § 24750 et seq.

§ 24867. Foreign brand owners; fair trade contract; schedule of prices. Each person without the State who owns or controls a brand of wine resold to retailers or consumers in this State shall designate in writing one licensee who imports the brand of wine to make and file a fair trade contract and file a schedule of resale prices for the brand. (Added Stats.1953, c. 152, p. 1004, § 1.)

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

Library references: Intoxicating Liquors Ⓒ110; Trade Regulation Ⓒ951 et seq.; C.J.S. Intoxicating Liquors § 191; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 246.

Cross References

Imports, see § 23600 et seq.

§ 24868. Off-sale retailers; price schedule. Each off-sale retailer who owns or controls a brand of wine sold to consumers shall post a schedule of selling prices for the brand. (Added Stats.1953, c. 152, p. 1004, § 1.)

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

Library references: Intoxicating Liquors Ⓒ110; Trade Regulation Ⓒ951 et seq.; C.J.S. Intoxicating Liquors § 191; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 246.

§ 24869. Price schedules and fair trade contracts; required contents. Each price schedule and fair trade contract, in addition to such other information, and on such form, as the department may prescribe, shall contain all of the following:

(a) General information, including the name and address of the licensee filing, the name and address of the seller or brand owner without the State, if any, for whom the licensee is filing, the trading area or areas covered, and restrictions on distribution or resale, if any.

(b) Information identifying each different item of wine, including the brand name, secondary brand name, if any, form of label, if more than one form used, class and type of wine, vintage date, if shown on label, special or gift package, if any, number of bottles in case, and size of bottles.

(c) Information as to basic prices of each item, f. o. b. selling premises or delivered, or both, including, where applicable, basic case and bottle selling and resale prices to retailers and to consumers.

(d) Information as to discounts and additional charges, including quantity and prompt payment discounts and broken case charge to

retailers, if any. (Added Stats.1953, c. 152, p. 1004, § 1, as amended Stats.1955, c. 447, p. 918, § 100.)

Historical Note

The 1955 amendment substituted "department" for "board" in the introductory paragraph.

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

Cross References

Fair trade contracts for wine, see § 24750.5.

Notes of Decisions

Library references

Intoxicating Liquors § 110.
Trade Regulation § 951 et seq.
C.J.S. Intoxicating Liquors § 191.
C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 246.

1. Setting prices

Proposal to set fair trade price of wine at a price to include the cost of a one cent token redeemable in merchandise at the equivalent of wholesale prices for such merchandise would constitute a violation of § 25600 prohibiting the giving of premiums, gifts or free goods. 31 Ops.Atty. Gen. 71.

§ 24870. Basic selling and resale price; selling price; number of prices for same brand. Basic selling and resale price shall include customs duties, if any, federal and California excise taxes, California marketing order assessments, if applicable, plus any other legal charge not required to be shown in the price schedule except California sales tax. Selling price and resale price shall be the basic selling price or the basic resale price, respectively, less discounts, plus broken case charges contained in the applicable price schedule or fair trade contract.

The selling price contained in any schedule of selling prices shall be the same as the resale price contained in an effective fair trade contract and schedule of resale prices filed by the same licensee.

If bulk wine is bottled for a buyer under the label of the bottler, the selling price to the buyer of the wine so bottled shall be the same as the selling price contained in an applicable schedule of selling prices posted by the bottler for wine carrying that label.

Not more than three different prices to retailers or to consumers shall be permitted for the same brand of bottled wine differing only in the secondary brand name, the form of label, such as color scheme, number of stars, or in some other way not pertaining to the class or type, vintage date, if shown on the label, or special or gift package. (Added Stats.1953, c. 152, p. 1004, § 1, as amended Stats.1963, c. 1040, p. —, § 11.)

Library references: Intoxicating Liquors § 110; Trade Regulation § 951 et seq.; C.J.S. Intoxicating Liquors § 191; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 246.

Historical Note

The 1963 amendment deleted "etc." which followed the word "stars" in the fourth paragraph.

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1940, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

Cross References

Excise taxes, see 32001 et seq.

§ 24871. Quantity discounts; prompt payment discounts. Quantity discounts to retailers shall be permitted only when actual delivery of a single order is begun and completed to the same premises within a period not to exceed 48 hours, except in the case of accident, strike, insurrection, riot, or act of God, and then delivery shall be made within 48 hours after such occurrence ends. The total quantity and prompt payment discounts, if any, to retailers shall not exceed 10 percent per case for case lots. Brands owned or controlled for the purpose of filing price schedules pursuant to this chapter by the same wine grower or wholesaler may be combined for quantity and prompt payment discounts.

Quantity discounts to consumers shall not exceed 10 percent per case for case lots of the same brand.

Prompt payment discounts to retailers shall be permitted only when the seller actually receives payment in cash or its equivalent within the specified period after date of delivery. Postdated checks or checks returned for nonpayment shall not be deemed the equivalent of cash.

Permitted discounts shall not be taken in merchandise. (Added Stats.1953, c. 152, p. 1005, § 1, as amended Stats.1955, c. 1129, p. 2124, § 2; Stats.1957, c. 183, p. 830, § 4.)

Library references: Intoxicating Liquors § 110; Trade Regulation § 951 et seq.; C.J.S. Intoxicating Liquors § 191; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 246.

Historical Note

This section, as originally enacted, contained a schedule of discounts at the end of the second sentence of the first paragraph.

The 1955 amendment revised the schedule of discounts.

The 1957 amendment substituted "10 percent per case for case lots" for the schedule of discounts, and added the third sentence of the first paragraph.

Laws 1957, c. 183, p. 832, § 8, provided that the amendments made by Sections 4, 5, 6 and 7 of this act should apply to price schedules or changes thereto and discounts which are in effect or become effective on or after November 1, 1957.

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1940, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

§ 24872. Fair trade contracts and price schedules; filing time; changes; effective date; duration. Fair trade contracts and price

schedules for wine available for sale for the first time shall be made and filed on or before the twenty-fifth of any month.

Adding an item to, removing an item from, or changing any charge, discount, or price in, any price schedule or fair trade contract constitutes a change in the price schedule or fair trade contract.

Monthly changes shall be filed on or before the twenty-fifth of any month.

If a change occurs in the body of a fair trade contract, a copy of the changed fair trade contract shall be filed at the same time that the changed price schedule affected thereby is filed.

Price schedules, fair trade contracts, or changes therein shall become effective on the first day of the month following the month of filing, except as otherwise provided in this chapter, and shall remain in effect for a minimum of one month and until changed in the manner provided in this chapter. (Added Stats.1953, c. 152, p. 1005, § 1, as amended Stats.1957, c. 183, p. 831, § 5.)

Library references: Intoxicating Liquors §110; Trade Regulation §951 et seq.; C.J.S. Intoxicating Liquors § 191; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 246.

Historical Note

Stats.1957, c. 183, p. 831, § 5, amended this section by substituting "twenty-fifth of any month" for "tenth of any month" in the first and third paragraphs; by deleting the following provisions from the third paragraph "After the tenth and on or before the twentieth of any month, any price may be lowered to meet a competitive price filed for the first time on or before the tenth of the same month. After the twentieth and on or before the last day of any month, any price may be lowered to meet a competitive price filed for the first time after the tenth and on or before the twentieth of the same month. Any price filed after the tenth of any month shall be accompanied by the name and address of the competitor whose price is being met, with a complete identification of the competing item, including the price."

Any price filed after the twentieth of any month shall be filed on a supplemental price schedule listing the lowered prices only."; by omitting a fourth paragraph which read "A lowering of price to meet a competitive price may be a reduction by any amount desired, but in no event shall the reduction be to an amount below the competitive price."; and by adding that portion of the last paragraph commencing with the words "and shall remain in effect" etc.

Application of 1957 amendment, see Historical Note under § 24871.

Derivation: Stats.1935, c. 330, p. 1123, § 55.85, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 805, p. 2415, § 1.

Cross References

File or post defined, see § 24857.

§ 24873. Federal price ceilings; compliance; effective date of price schedules and fair trade contracts. For the purpose of complying with the General Ceiling Price Regulation, Economic Stabilization Agency, or with any other applicable federal law, ruling, rule, or regulation respecting prices, or for the purpose of increasing a price or prices when an increase in ceiling price is authorized by any such law, ruling, rule, or regulation, price schedules and fair trade

contracts, or changes therein, may be filed with the department at any time and shall become effective immediately upon filing. If filed because of an authorized increase in ceiling price, the applicable price schedule and fair trade contract, or changes therein, shall be filed with the department not later than the twenty-fifth day of the month following the month in which the increase in ceiling price is first authorized.

Publication of the price schedules or changes therein shall be made as provided in Section 24875 on or before the first day of the month following the month in which the price schedules or changes therein are filed with the department. The price schedules or changes therein shall contain the statement: "Filed to comply with federal pricing laws and regulations" or "Filed to increase prices as first authorized on (inserting the date)." Notwithstanding any other provision of this chapter, price schedules and fair trade contracts, or changes therein, made effective pursuant to this section shall remain in effect until changed pursuant to this chapter. (Added Stats.1953, c. 152, p. 1006, § 1, as amended Stats.1955, c. 447, p. 919, § 101; Stats. 1957, c. 183, p. 831, § 6.)

Library references: Intoxicating Liquors Ⓒ110; Trade Regulation Ⓒ951 et seq.; C.J.S. Intoxicating Liquors § 191; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 246.

Historical Note

The 1955 amendment substituted "department" for "board" throughout the section.

Time for filing, where filing is done because of an authorized increase in ceiling price, was changed from the "twentieth day" etc., to the "twenty-fifth day" etc., by the 1957 amendment.

Application of 1957 amendment, see Historical Note under § 24871.

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

§ 24874. Public inspection of price schedules. The department shall make price schedules or changes therein, or a composite thereof, available for public inspection. (Added Stats.1953, c. 152, p. 1006, § 1, as amended Stats.1955, c. 447, p. 919, § 102.)

Library references: Intoxicating Liquors Ⓒ110; Trade Regulation Ⓒ951 et seq.; C.J.S. Intoxicating Liquors § 191; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 246.

Historical Note

The 1955 amendment substituted "department" for "board".

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

§ 24875. Price schedule or change; publication in trade journal etc.; mailing. Except for wine growers selling only to consumers at their licensed premises, every person filing a price schedule or

change therein shall, at least once on or before the first of the month in which effective, publish the price schedule or change in a trade journal or industry price book printed and published in this State and of general circulation among licensees affected in this State. In case of industry price books which are of general circulation among licensees in only some of the trading areas, the publication shall be in one industry price book of general circulation in each trading area.

Instead of publishing, the licensee may mail his price schedule or any changes therein to licensees affected. Schedules or changes therein shall be deposited in the United States Post Office before the date required for publication. If the affidavit prescribed herein is not filed before the date required for publication, the schedule or changes therein are not effective until the affidavit is filed. Within five days after the mailing, the licensee shall file with the department a list of names and addresses of the licensees to whom the price schedules or changes are mailed, together with an affidavit of the person who deposited the schedules in envelopes addressed to the licensees whose names and addresses are set forth in the list. The affidavit is prima facie evidence of the facts stated therein.

Wine growers selling only to consumers at their licensed premises need not publish or mail their price schedules but shall post the schedules in that portion of their premises where sales are made where they can be readily inspected by consumers. (Added Stats. 1953, c. 152, p. 1006, § 1, as amended Stats. 1955, c. 447, p. 919, § 103; Stats. 1957, c. 183, p. 831, § 7.)

Library references: Intoxicating Liquors § 110; Trade Regulation § 951 et seq.; C.J.S. Intoxicating Liquors § 191; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 246.

Historical Note

The 1955 amendment, in the second paragraph substituted "department" for "board."

The 1957 amendment deleted the words "or supplemental schedules" following "schedules" in the second sentence of the second paragraph, and "supplemental schedule" following "schedule" in the third sentence thereof, and deleted a former fourth sentence which read: "A price filed after the twentieth and on or before the last day of any month becomes ineffective on the last day of the first month in which

effective, and the applicable price shown on the last regular price schedule on file with the board shall become re-effective unless the last regular price is changed pursuant to this chapter."

Application of 1957 amendment see Historical Note under § 24871.

Derivation: Stats. 1935, c. 330, p. 1123, § 55.65, added Stats. 1949, c. 574, p. 1064, § 1, amended Stats. 1951, c. 895, p. 2415, § 1.

Cross References

Wine grower defined, see § 23013.

§ 24876. Close-out sale; permission. No licensee shall make any close-out sale, or sale when the wine or container is damaged or deteriorated in quality, under the implied conditions set forth in Sec-

tion 24751 except after receiving permission from the department, which shall determine whether the proposed sale is bona fide.

A "close-out" sale within the meaning of this section means a bona fide close-out of a particular item of wine in the California market. Label changes which do not pertain to the class or type of wine, the vintage date, or the special or gift package, shall not be deemed to be "close-out."

Permission to make a close-out sale pursuant to Section 24751 shall be granted only if it appears that the stock of wine sought to be closed out has been on the market in this State for a period of not less than six months and was not brought into this State for the purpose of offering it, or any part of it, at a close-out sale.

Permission to make a sale of wine pursuant to Section 24751, when the wine or container is damaged or deteriorated in quality, shall be granted only if it appears that the facts of the case warrant the sale of the wine affected as damaged or deteriorated.

Petitions for permission to make close-out sales, or sales of damaged or deteriorated wine, shall state a full and complete description of the wine involved, in such detail as to distinguish the wine from all others, and shall include the federal serial numbers, if any, of the cases involved. The number of cases or bottles involved shall also be stated. The petitioner shall agree not to sell or handle the item closed out for at least six months after the close-out. (Added Stats. 1953, c. 152, p. 1007, § 1, as amended Stats. 1955, c. 447, p. 920, § 104.)

Library references: Intoxicating Liquors § 110; Trade Regulation § 951 et seq.; C.J.S. Intoxicating Liquors § 191; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 246.

Historical Note

The 1955 amendment substituted "department" for "board" in the first paragraph.

Derivation: Stats. 1935, c. 330, p. 1123, § 55.65, added Stats. 1949, c. 574, p. 1004, § 1, amended Stats. 1951, c. 805, p. 2415, § 1.

§ 24877. Violation of unfair practices act. The sale of any wine by a licensee in violation of the Unfair Practices Act ¹ is prohibited and is a violation of this chapter. (Added Stats. 1953, c. 152, p. 1007, § 1.)

¹ Section 17000 et seq.

Derivation: Stats. 1935, c. 330, p. 1123, § 55.65, added Stats. 1949, c. 574, p. 1004, § 1, amended Stats. 1951, c. 895, p. 2415, § 1.

Library references: Intoxicating Liquors § 146(1); Trade Regulation § 976; C.J.S. Intoxicating Liquors § 237 et seq.; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 258.

§ 24878. Rebates, discounts, etc., prohibited; cooperative buying; samples. Except as otherwise provided in this chapter, the giving of, or offering to give, any rebate, free goods, combination deal,

premium, allowance, unauthorized discount, floor stocks adjustment, or any other thing or service of value, directly or indirectly, in connection with the sale of wine subject to this chapter, or, in any other way circumventing this chapter to effect a sale at a price other than the price shown in the applicable price schedule, is a violation of this chapter.

This section does not prohibit any cooperative buying group which on January 1, 1949, held a federal basic permit or was licensed by the department from giving, or its members from receiving, dividends or other adjustments from the general fund of the cooperative buying group. This chapter does not prohibit the furnishing of samples, advertising matter, and other selling aids or rendition of any services as authorized by this division and rules issued pursuant to this division. (Added Stats.1953, c. 152, p. 1007, § 1, as amended Stats. 1955, c. 447, p. 920, § 105; Stats.1957, c. 1768, p. 3162, § 1.)

Library references: Intoxicating Liquors Ⓒ110; Trade Regulation Ⓒ951 et seq.; C.J.S. Intoxicating Liquors § 191; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 246.

Historical Note

The 1955 amendment substituted "department" for "board" in the second paragraph.

The 1957 amendment inserted the phrase "or rendition of any services" near the middle of the second sentence of the second paragraph.

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 895, p. 2415, § 1.

§ 24879. Returns; restriction. A retailer may return wine to the seller or to the successor of the seller and the seller or his successor may accept the return thereof, but the seller or his successor may not sell wine to the retailer for a period of one year after the date the returned wine is accepted or received unless the wine is returned in exchange for the identical quantity, brand, and item of wine, or unless it is returned pursuant to court order, or unless the returned wine is a brand or item of wine which has been discontinued by the seller or his successor, and in such case the wine is exchanged for the identical quantity of a brand or item of similar quality.

If wine or the container thereof is damaged or deteriorated, and the seller thereof has ceased to carry on a business licensed under this division and there is no successor to such business, such wine may be returned by a retailer to a wine grower or wholesaler who handles the same brand or item of wine, upon the same terms and conditions provided in this section for return of wine to a seller or his successor, after receiving approval from the department. (Added Stats.1953, c. 152, p. 1008, § 1, as amended Stats.1957, c. 149, p. 755, § 1.)

Library references: Intoxicating Liquors Ⓒ110; Trade Regulation Ⓒ951 et seq.; C.J.S. Intoxicating Liquors § 191; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 246.

Historical Note

This section, as originally enacted, read as follows: "A retailer may return wine to the seller and the seller may accept the return thereof, but the seller may not sell wine to the retailer for a period of one year after the date the returned wine is accepted or received unless the wine is returned in exchange for the identical quantity, brand, and item of wine, or un-

less it is returned pursuant to court order."

The section was rewritten in its present form in 1957.

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 395, p. 2415, § 1.

Cross References

Seizure for violations, see § 25350.

§ 24880. Violation; suspension or revocation of license. For a violation of any of the provisions of this chapter or rules adopted pursuant to this chapter, the department may suspend or revoke a license as follows:

(a) For a first offense, not exceeding 10 days' suspension.

(b) For a second offense, not exceeding 30 days' suspension.

(c) For a third offense, the department may suspend or revoke a license. (Added Stats.1953, c. 152, p. 1008, § 1, as amended Stats.1955, c. 447, p. 921, § 106.)

Library references: Intoxicating Liquors § 106(4); Trade Regulation § 976; C.J.S. Intoxicating Liquors § 175; C.J.S. Trade-Marks, Trade-Names, and Unfair Competition § 258.

Historical Note

The 1955 amendment substituted "department" for "board" in the introductory paragraph and in subpar. (c).

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 395, p. 2415, § 1.

Cross References

Suspension and revocation of licenses, see § 24200 et seq.
Types of licenses, see § 23320.

§ 24881. Administrative rules. The department may adopt such rules as it determines to be necessary for the administration of this chapter. (Added Stats.1953, c. 152, p. 1008, § 1, as amended Stats.1955, c. 447, p. 921, § 107.)

Library references: Administrative Law and Procedure § 388; C.J.S. Public Administrative Bodies and Procedure § 95.

Historical Note

The 1955 amendment substituted "department" for "board."

Derivation: Stats.1935, c. 330, p. 1123, § 55.65, added Stats.1949, c. 574, p. 1064, § 1, amended Stats.1951, c. 395, p. 2415, § 1.

Cross References

Rules and regulations regarding administration of division, see § 25750.

Administrative Code References

Prices, see 4 Cal. Adm. Code 90 et seq.